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OFFICE OF PETITIONS

In re Application of
Doucette-Stamm
Application No. 10/092,411
Filed: March 7, 2002
Attorney Docket No. 032796-101

Decision on Petition

This is a decision on the petition filed December 14, 2004, which is being treated as a petition under 37 CFR 1.53 to establish that the filing date for the application should be March 7, 2002.

The petition is **granted**.

Facts:

The application was filed on March 7, 2002.

On April 22, 2002, the Office mailed a Notice which stated in part that pages 21 and 79-318 of the specification did not appear to be part of the application as filed. The Notice gave petitioner three options:

- (1) File a petition, petition fee, and evidence establishing that the missing pages of the application were submitted to the PTO on March 7, 2002.
- (2) File a petition, petition fee, the pages, and request a filing date as of the date that the petition and missing pages are submitted.
- (3) Accept the application as deposited.

Petitioner did not file a petition under option (1) or (2) above. A petition was never granted according the application a filing date later than March 7, 2002.

Petitioner filed a preliminary amendment in response to the Notice on August 22, 2002.

Instead of entering the reply and determining the propriety of the reply, for an unknown reason, a Patent Office employee changed the filing date from March 7, 2002, to August 22, 2002, while also entering the papers filed on August 22, 2002, as part of the original application.

Prosecution of the application continued with the incorrect date and a non-final Office action, setting a period for reply of one month, was mailed by the examiner on January 30, 2004. A reply to the Office action was not filed. However, payment for a 5 month extension of time was filed. On July 30, 2004, a continuation of the instant application was filed.

A Notice of Abandonment was mailed on August 20, 2004.

Analysis:

A review of the record indicates the filing date should not have been changed from March 7, 2002, to August 22, 2002. A petition for a later filing date was never filed or granted. Therefore the petition is granted.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of \$400 will be credited to petitioner's deposit account.

The Office of Initial Patent Examination will correct Office records to show that the application is entitled to a filing date of March 7, 2002. The papers filed August 22, 2002, will not be considered part of the original application.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Petitions Attorney
Office of Petitions